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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Andorra,* Austria,* Argentina,* Belgium, Bosnia and Herzegovina,* Bulgaria,* Denmark,* Fiji,* Finland,* Ghana, Honduras,* Iceland,* Liechtenstein,* Luxembourg,* Montenegro,* Norway,* Paraguay, Russian Federation, Spain,* Switzerland, Turkey,* Ukraine,* United Kingdom of Great Britain and Northern Ireland: draft resolution

32/... Business and human rights: improving accountability and access to remedy

The Human Rights Council,

Recalling its resolutions 8/7 of 18 June 2008, 17/4 of 6 July 2011, 21/5 of 27 September 2012 and 26/22 of 27 June 2014, and Commission on Human Rights resolution 2005/69 of 20 April 2005, on the issue of human rights and transnational corporations and other business enterprises,

Recalling in particular that the endorsement of the Guiding Principles on Business and Human Rights by the Human Rights Council in its resolution 17/4 established an authoritative framework to prevent and address adverse human rights impacts from business activities, based on the three pillars of the United Nations "Protect, Respect and Remedy" framework,

Stressing that the obligation and the primary responsibility to promote and protect human rights and fundamental freedoms lie with the State,

Emphasizing that transnational corporations and other business enterprises have a responsibility to respect human rights,

Concerned at legal and practical barriers to remedies for victims of business-related human rights abuses, which may leave those aggrieved without opportunity for effective remedy, including through judicial and non-judicial avenues,

* State not a member of the Human Rights Council.

Expressing concern at reports of intimidation against victims, witnesses and their legal representatives regarding cases of business-related human rights abuses, and emphasizing the need to ensure their safety,

Reaffirming that, as part of their duty to protect against business-related human rights abuses, States should take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses are committed within their territory and or jurisdiction, those affected have access to effective remedy, as set forth in the Guiding Principles,

Reaffirming in particular that effective judicial mechanisms are at the core of ensuring access to remedy and that States should take appropriate steps to ensure the effectiveness of such mechanisms when addressing business-related human rights abuses, including in cross-border cases,

Recalling that States should provide effective and appropriate non-judicial grievance mechanisms as part of a comprehensive State-based system of remedy for business-related human rights abuses, and that such mechanisms play an essential role in complementing and supplementing judicial mechanisms,

Recognizing that addressing legal and practical barriers to accountability and remedy for victims of business-related abuse requires concerted and comprehensive efforts from all States, including, as appropriate, the development of legislative and regulatory frameworks, improvements in the functioning of judicial mechanisms, law enforcement, the development of policy and of practice, transparency and closer international cooperation, including in cross-border cases,

Recognizing also the positive and valuable role played by civil society, including non-governmental organizations, in the promotion and protection of human rights, including in the context of corporate activity and when seeking accountability and assisting victims in their access to effective remedies in cases of business-related human rights abuses, and reaffirming that States are under the obligation to protect all human rights and the fundamental freedoms of all persons,

Recognizing further the important role of national human rights institutions in supporting the effective implementation of the Guiding Principles, including regarding access to remedy, by all relevant stakeholders,

Recalling that business enterprises should comply with national laws and with the requirements of judicial processes, address any adverse human rights impact they cause or contribute to, and not engage in any actions that might weaken the integrity of judicial processes,

Recognizing the shared interest of business, States and civil society in an environment that is pluralistic and non-discriminatory, upholding the rule of law and promoting transparency, and that responsible business enterprises benefit from and often depend upon legal certainty, transparency and predictability, and fair and effective domestic judicial mechanisms,

1. *Welcomes* the report of the United Nations High Commissioner for Human Rights on improving accountability and access to remedy for victims of business-related human rights abuse, and the recommendations contained therein, and the annex thereto on improving corporate accountability and access to judicial remedy for business-related human rights abuse; [1]

[1] A/HRC/32/19 and Add.1.

2. *Recognizes* that the effective implementation of the Guiding Principles on Business and Human Rights includes implementation of the access to remedy pillar, and encourages all States to take appropriate steps to improve corporate accountability and access to remedy for victims of business-related human rights abuses, also by creating and maintaining an enabling environment for civil society, including non-governmental organizations and those engaged in the promotion and protection of human rights and fundamental freedoms, aimed at enhancing dialogue and cooperation between all relevant stakeholders;

3. *Encourages* States to consider undertaking a review of the coverage and effectiveness of domestic law regimes that are related to respect by business enterprises for human rights with a view to improving accountability and access to effective remedy in cases of business involvement in human rights abuses, taking into account the legal and practical challenges arising from the organization and management of business enterprises and complex global supply chains and, as appropriate, drawing from the annex to the report of the High Commissioner;

4. *Also encourages* States to develop a comprehensive strategy for improving accountability and access to remedy, including by using the annex to the report of the High Commissioner[1] and in a manner appropriate to local legal structures, traditions, challenges and needs, for instance as a part of national action plans on business and human rights and through other related initiatives;

5. *Further encourages* States to take steps to improve the effectiveness of international cooperation between State agencies and judicial bodies with respect to law enforcement of domestic legal regimes to address business-related human rights abuses;

6. *Invites* regional and international bodies responsible for promoting and facilitating international cooperation with respect to cross-border investigation, legal assistance and enforcement of judicial decisions to take steps to improve the speed and effectiveness of such cooperation in cross-border cases of business-related human rights abuses through legal, practical and capacity-building means;

7. *Calls upon* all business enterprises to meet their responsibility to respect human rights in accordance with the Guiding Principles, including for example by actively contributing to initiatives aimed at fostering a culture of respect for the rule of law, participating in good faith in domestic judicial processes, and by establishing effective operational-level mechanisms to enable the early resolution of grievances;

8. *Encourages* business enterprises to share publicly information regarding their human rights policies and procedures to enhance stakeholder engagement with respect to business operations and the preventative measures that businesses can take;

9. *Recognizes* the role of the Working Group on the issue of human rights and transnational corporations and other business enterprises in promoting effective implementation of the Guiding Principles, including the access to remedy pillar, and encourages the Working Group to promote and use the report and the annex thereto,[1] as appropriate, in all relevant activities, including in its guidance on the development and implementation of effective national action plans and in relation to State-owned enterprises;

10. *Welcomes* the role of the Working Group in guiding the annual Forum on Business and Human Rights and in convening regional forums to discuss challenges and lessons learned in a regional context, and invites the Working Group to include challenges, opportunities and lessons learned when improving accountability and access to judicial remedy for business-related human rights abuse as an item on the agenda of the annual Forum in 2016;

11. *Requests* the High Commissioner to convene two open consultations involving representatives of States and other stakeholders on the report in 2017, dedicating the first consultation to analysing best practices and how to improve the effectiveness of cross-border cooperation between State agencies and judicial bodies with respect to law enforcement, to submit a report thereon to the Human Rights Council at its thirty-fifth session, and the second consultation on the topics covered in paragraphs 3 to 5 above, and to submit a final report on steps taken by States on improving accountability and access to remedy to the Council at its thirty-eighth session;

12. *Also requests* the High Commissioner to identify and analyse lessons learned, best practices, challenges and possibilities to improve the effectiveness of State-based non-judicial mechanisms that are relevant for the respect by business enterprises for human rights, including in a cross-border context, and to submit a progress report thereon before the thirty-fifth session of the Human Rights Council, and the final report thereon to be considered by the Council at its thirty-eighth session;

13. *Encourages* all relevant United Nations programmes and agencies to assist States upon their requests, including through technical cooperation and capacity-building activities, and to improve accountability and access to remedy for victims of business-related human rights abuses by using, as appropriate, the recommendations contained in the report;[1]

14. *Encourages* national human rights institutions to promote and use the recommendations in supporting States and in any other activities relating to improving accountability and access to judicial remedy for victims of business-related human rights abuses;

15. *Encourages* civil society, including non-governmental organizations, to promote and use the advice in the report as appropriate in their activities to improve accountability and access to judicial remedy for victims of business-related human rights abuse;

16. *Emphasizes* the importance of stakeholder dialogue and analysis to maintain and build on the results achieved to date to prevent and address business-related human rights abuses, and to inform further deliberations of the Human Rights Council on business and human rights;

17. *Decides* to continue its consideration of this question in conformity with its annual programme of work.